

RULE 31. DEPOSITIONS UPON WRITTEN QUESTIONS

(a) Serving Questions; Notice. After commencement of the action, any party may take the testimony of any person, including a party, either within or without the state, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30(b)(6).

Within 30 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.

(c) Notice of Filing. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

(d) Depositions for Use in Foreign Jurisdictions. The deposition of any person may be taken in this state upon written questions pursuant to the laws of another state or of the United States or of another country for use in proceedings there. The provisions of Rule 30(h)(2) and (3) apply to such depositions.

Advisory Committee's Note
April 15, 1975

This amendment adds a new Rule 31(d), providing a simplified procedure for taking depositions upon written questions within Maine to be used in proceedings in another jurisdiction. The former procedure for such depositions contained in Rule 28(d) has been abrogated by a simultaneous amendment. At the same time, a new Rule 30(h) has been added, making provision for such depositions upon oral examination. That rule is incorporated by reference in the present rule. See Advisory Committee's Notes to amendments of Rules 28 and 30.

Advisory Committee's Note
October 1, 1970

Both of the existing Rules 31 and 33 use the term "interrogatories," but the two rules provide two very different discovery devices: (1) depositions of witnesses (whether or not parties), taken upon "written interrogatories" pursuant to Rule 31, and (2) the serving of "written interrogatories" upon parties pursuant to Rule 33. Rule 31 is now amended to avoid that confusion by substituting the word "questions" for the word "interrogatories" throughout Rule 31.

The fifteen-, five-, and five-day periods for service of cross, redirect, and recross questions have been extended to thirty, ten and ten. The new time limits are believed to be more realistic than the present ones. Since no party is required to serve cross questions less than thirty days after the notice and questions are served under Rule 31, no special restriction is placed on the time for the plaintiff's initiating a Rule 31 deposition. Rule 31(a) is amended to make clear that the court may for cause shown enlarge or shorten the time periods therein prescribed.

Reporter's Notes
December 1, 1959

This rule is the same as Federal Rule 31 except for increase in the time limits for serving cross and redirect interrogatories. This increase is to lessen the pressure on a busy lawyer practicing by himself.

Rule 31 providing for depositions of parties or witnesses on written interrogatories is to be distinguished from Rule 33 providing for interrogatories to parties. Under Rule 31, the deposition of "any person," including a party, may be

taken, whereas under Rule 33 interrogatories may be served only upon an "adverse party." Furthermore, a Rule 31 deposition is taken with the same formalities as an oral deposition, i.e., before a notary public, etc., and with the questions and answers taken down by a stenographer. On the other hand, Rule 33 interrogatories are simply answered under oath directly by the party, customarily with the immediate advice and participation by his lawyer.

The scope of examination and the use of depositions taken under this rule are covered by Rule 26.